

### § 4903.33

(2) A debtor will have at least 60 days to present evidence, for consideration by the PBGC, that all or part of a debt is not past-due or not legally enforceable.

(3) If evidence that all or part of a debt is not past-due or not legally enforceable is considered by an agent or person other than a PBGC employee acting on behalf of the PBGC, a debtor will have at least 30 days from the date of the determination on the debt to request review by the Director of the Financial Operations Department (or a department official designated by the Director).

(4) The PBGC will notify a debtor of its determination as to whether all or part of a debt is past-due and legally enforceable.

(c) *Consumer reporting agency disclosure.* (1)(i) If a consumer debt exceeds \$100, the Director of the Financial Operations Department (or a department official designated by the Director), after verifying the validity and overdue status of the debt and that section 605 of the Consumer Credit Protection Act (15 U.S.C. 1681c) does not prohibit a consumer reporting agency from reporting information concerning the debt because it is obsolete, will send the individual who owes the debt a written notice—

(A) That the debt is past-due;

(B) That the PBGC intends to disclose to a consumer reporting agency that the individual is responsible for the debt and the specific information to be disclosed; and

(C) How the individual may obtain an explanation of the debt, dispute the information in PBGC's records, and obtain administrative review of the debt.

(ii) If the PBGC does not have a current address for an individual, the Director of the Financial Operations Department (or a department official designated by the Director) will take reasonable action to locate the individual.

(2) The Director of the Financial Operations Department (or a department official designated by the Director) will disclose the debt if, within 60 days (or, at his or her discretion, more than 60 days) after sending the notice described in paragraph (c)(1) of this section, the individual has not repaid the debt, or agreed to repay the debt under a writ-

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ten agreement, or requested administrative review of the debt.

### § 4903.33 Referral of debt for tax refund offset.

The Director of the Financial Operations Department (or a department official designated by the Director) will refer debts to the IRS for refund offset, and will correct referrals, in accordance with IRS regulations (26 CFR 301.6402–6(e) and (f)).

### Subpart D—Salary Offset [Reserved]

## PART 4904—ETHICAL CONDUCT OF EMPLOYEES

AUTHORITY: 29 U.S.C. 1302(b); E.O. 11222, 30 FR 6469; 5 CFR 735.104.

### § 4904.1 Outside employment and other activity.

(a)–(c) [Reserved]

(d) An employee who is engaged in or is planning to engage in outside employment, business, professional or other such activities for pay shall obtain clearance:

(1) When such activities raise a question of conflict with this subpart or any applicable laws, orders, regulations or standards, or

(2) When applicable laws, orders or regulations require clearance of such activities.

(e) A request for clearance shall be in writing and shall include a statement of the nature of and the amount of time to be devoted to the activity. The heads of offices shall receive and review requests for clearance submitted by members of their staff. The Executive Director or his designee shall receive and review requests for clearance submitted by the heads of offices and special Government employees. The employee reviewing the request for clearance may require the employee making the request to furnish such other information as may be appropriate in considering the request and shall consult with the Corporation's Ethics Counselor where appropriate. The request may be granted only if such activity would be consistent with applicable laws, orders and regulations.

## Pension Benefit Guaranty Corporation

## § 4905.4

If the request for clearance is not granted, the employee making the request shall not commence or continue in the activity unless the Executive Director or his designee, upon written request of the employee, determines that such activity would be consistent with applicable laws, orders and regulations.

[61 FR 34133, July 1, 1996]

### PART 4905—APPEARANCES IN CERTAIN PROCEEDINGS

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AUTHORITY: 29 U.S.C. 1302(b); E.O. 11222, 30 FR 6469; 5 CFR 735.104.

SOURCE: 61 FR 34133, July 1, 1996, unless otherwise noted.

#### § 4905.1 Purpose and scope.

(a) *Purpose.* This part sets forth the rules and procedures to be followed when a PBGC employee or former employee is requested or served with compulsory process to appear as a witness or produce documents in a proceeding in which the PBGC is not a party, if such appearance arises out of, or is related to, his or her employment with the PBGC. It provides a centralized decisionmaking mechanism for responding to such requests and compulsory process.

(b) *Scope.* (1) This part applies when, in a judicial, administrative, legislative, or other proceeding, a PBGC employee or former employee is requested or served with compulsory process to provide testimony concerning information acquired in the course of performing official duties or because of official status and/or to produce material acquired in the course of performing official duties or contained in PBGC files.

(2) This part does not apply to:

(i) Proceedings in which the PBGC is a party;

(ii) Congressional requests or subpoenas for testimony or documents; or

(iii) Appearances by PBGC employees in proceedings that do not arise out of,

or relate to, their employment with PBGC (*e.g.*, outside activities that are engaged in consistent with applicable standards of ethical conduct).

#### § 4905.2 Definitions.

For purposes of this part:

*Appearance* means testimony or production of documents or other material, including an affidavit, deposition, interrogatory, declaration, or other required written submission.

*Compulsory process* means any subpoena, order, or other demand of a court or other authority (*e.g.*, an administrative agency or a state or local legislative body) for the appearance of a PBGC employee or former employee.

*Employee* means any officer or employee of the PBGC, including a special government employee.

*Proceeding* means any proceeding before any federal, state, or local court; federal, state, or local agency; state or local legislature; or other authority responsible for administering regulatory requirements or adjudicating disputes or controversies, including arbitration, mediation, and other similar proceedings.

*Special government employee* means an employee of the PBGC who is retained, designated, appointed or employed to perform, with or without compensation, for not to exceed one hundred and thirty days during any three hundred and sixty-five consecutive days, temporary duties either on a full-time or intermittent basis (18 U.S.C. 202).

#### § 4905.3 General.

No PBGC employee or former employee may appear in any proceeding to which this part applies to testify and/or produce documents or other material unless authorized under this part.

#### § 4905.4 Appearances by PBGC employees.

(a) Whenever a PBGC employee or former employee is requested or served with compulsory process to appear in a proceeding to which this part applies, he or she will promptly notify the General Counsel.

(b) The General Counsel or his or her designee will authorize an appearance